

S.B. 85	S.B. 1093
S.B. 194	S.B. 1222
S.B. 302	S.B. 1445
S.B. 367	S.B. 1524

FIFTY-NINTH DAY
(Monday, May 8, 1989)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, Leedom, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Sims, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Absent-excused: Ratliff, Washington.

A quorum was announced present.

The Reverend Tom Lakey, First Assembly of God, Lubbock, offered the invocation as follows:

Our Father and our God, we humbly bow in Your presence this morning to thank You for Jesus Christ who loved us and gave Himself for us; and to thank You for the countless blessings of our national freedom.

You have said, "Blessed is the nation whose God is the Lord." We freely acknowledge that we are a Nation and a State under God. Our faith in You is our foundation and our heritage. Your Word asks, "If the foundations be destroyed, what can the righteous do?" Our first President reminded us in his farewell address that Morality and Faith are the pillars of our society. Help us, O God, never to forget these important principles.

I thank You for every person in this room today. Each of them has been ordained by You to assume responsibility for wisely governing this great State. I ask You to give them wisdom to know what is right and an uncompromising courage to do it.

Our Father, we consecrate this day to You, praying that Your will shall be done in every decision made here. We trust Your sovereign and providential power to direct our ways. We pray especially for our Governor and our Lieutenant Governor as well as for all the officers of the great State of Texas. We pray for Your faithful blessing upon each Senator and his staff. May Your Grace rest upon them daily.

We pray all these things in that name that is above every other name, the name of Your only Son, Jesus Christ. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of Friday, May 5, 1989, was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Ratliff was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Washington was granted leave of absence for today on account of important business on motion of Senator Brooks.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the captions had been read, the following enrolled bills and resolutions:

H.C.R. 52	H.B. 79	H.B. 709
H.C.R. 117	H.B. 122	H.B. 729
H.C.R. 118	H.B. 143	H.B. 1192
H.C.R. 140	H.B. 347	H.B. 1393
H.C.R. 141	H.B. 371	H.B. 1394
H.C.R. 162	H.B. 391	H.B. 1474
H.C.R. 232	H.B. 423	H.B. 1577
H.C.R. 234	H.B. 630	H.B. 2079
		H.B. 2769

MESSAGE FROM THE HOUSE

House Chamber
May 8, 1989

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 69, Relating to designating and marking Beltway 8 as the Sam Houston Parkway.

S.B. 122, Relating to the governance, operation, funding, name, and mission of Texas A&I University, Corpus Christi State University, and Laredo State University as component institutions of The Texas A&M University System, to the composition, powers and duties of that system.

S.B. 204, Relating to the appointment of the director of a local health department or public health district.

S.B. 317, Relating to the payment approval process in the State for the purchase of goods and services by State agencies.

S.B. 429, Relating to the creation of the offense of soliciting, accepting or agreeing to accept a benefit or offering, conferring or agreeing to confer a benefit as an inducement to enroll in an institution of higher education and to participate in intercollegiate athletics.

S.B. 439, Relating to the distribution of restitution to a victim of an offense if the restitution is made as a condition of probation.

S.B. 499, Relating to credit in the Texas Municipal Retirement System for service performed before the participation date of a participating municipal department.

S.B. 537, Relating to the delegation of the duties of a county judge to hear alcoholic beverage permit and license applications.

S.B. 540, Relating to investment of assets administered by the board of trustees of the Employees Retirement System of Texas.

S.B. 571, Relating to the punishment for the offense of criminal trespass committed in a shelter center.

S.B. 689. Relating to certain notice requirements and the interrogation of fire fighters and police officers in certain cities; and declaring an emergency.

S.B. 716. Relating to concurrent terms for counties in the 82nd Judicial District.

S.B. 784. Relating to the delivery of free wine for certain purposes by the holder of a winery permit.

S.B. 793. Relating to disabled parking privileges for persons from other states or countries.

S.B. 794. Relating to the transfer of certain used or secondhand vehicles.

S.B. 815. Relating to participation and payment of certain premiums by State employees in cafeteria plan insurance coverage.

S.B. 886. Relating to exempting certain driver education vehicles from the Certificate of Title Act.

S.B. 898. Relating to deferred compensation plans for employees of the State and political subdivisions of the State; making an appropriation.

S.B. 899. Relating to deferred compensation plans for employees of the State and political subdivisions of the State; making an appropriation.

S.B. 938. Relating to the jurisdiction of the 344th District Court.

S.B. 950. Relating to advisory committees, allocation of powers, financial and performance audits and terms of office and removal of board members of certain metropolitan rapid transit authorities.

S.B. 1049. Relating to a central repository of school district boundary information and maps.

S.B. 1115. Relating to well-servicing units and self-powered drilling rigs.

S.B. 1223. Relating to the annual reporting to the Texas Water Commission of toxic chemical releases.

S.B. 1350. Relating to the acquisition of real property in Shelby County by the Texas Department of Public Safety.

S.B. 47. Relating to Pan American University and Pan American University at Brownsville. (As substituted)

S.B. 52. Relating to the dates and places of meetings in regular terms of the commissioners court of a county. (As substituted)

S.B. 152. Relating to dropout reduction. (As amended)

S.B. 188. Relating to the rights and duties of managing and possessory conservators. (As substituted and amended)

S.B. 297. Relating to the certification and expenses of shorthand reporters. (As substituted)

S.B. 334. Relating to the transaction of business by certain domestic insurance companies with defined clearing corporations. (As amended)

S.B. 440. Relating to the waiver of a probation revocation hearing by certain defendants. (As amended)

S.B. 319. Relating to liability insurance requirements for persons engaged in activities relating to fire extinguisher and fixed fire extinguisher systems, fire alarm

and fire detection devices and systems, fire protection sprinkler systems, and fireworks. (As substituted)

S.B. 514, Relating to limitations on the authority of the State Purchasing and General Services Commission to acquire certain materials, supplies and equipment for hospitals operated by university systems or institutions of higher education. (As substituted)

S.B. 583, Relating to establishing a graduate school of international trade at Laredo State University. (As amended)

S.B. 647, Relating to organizing Corpus Christi State University and to the funding of Texas A&I University and Del Mar College as affected by the transition of Corpus Christi State University to four-year status. (As substituted and amended)

S.B. 713, Relating to the creation, administration, powers, duties, operation and financing of the Rice Hospital District; authorizing a tax; granting the authority to issue bonds; and granting the power of eminent domain. (As amended)

S.B. 717, Relating to the creation, administration, powers, duties, operation and financing of the Columbus Community Hospital District; granting the power of eminent domain; granting the authority to issue bonds; and providing for the levy of taxes. (As amended)

S.B. 897, Relating to deferred compensation plans for employees of the State and political subdivisions of the State; making an appropriation. (As amended)

S.C.R. 5, Urging Congress to amend the United States Constitution to prohibit the United States from levying income taxes on income derived from obligations of the states and their political subdivisions.

S.C.R. 51, Encouraging the State Board of Education to use certain federal funds for programs relating to latchkey children and pregnant teens.

S.C.R. 23, Calling for a study of a State telecommunications satellite. (As amended)

H.B. 115, Relating to access by certain private institutions of higher education to criminal history records of employment applicants for security-sensitive positions.

H.B. 214, Relating to the authority of the Plum Creek Conservation District to regulate groundwater.

H.B. 260, Relating to a limitation on the amount of certificates of obligation that may be issued by a county and to refinancing certificates of obligation issued by a county.

H.B. 346, Relating to registration and protection of certain service marks, trademarks and trade names of entities engaged in the insurance business.

H.B. 421, Relating to the penalties and interest accrued on delinquent ad valorem taxes on the homestead of an elderly person.

H.B. 464, Relating to the necessity of a fishing license on certain days.

H.B. 588, Relating to the abolishment of common-law marriage.

H.B. 691, Relating to the use of interest on proceeds of bonds issued by or on behalf of governmental entities.

H.B. 1088, Relating to venue for certain writs of injunction.

H.B. 1162, Relating to the assignment of certain active appellate judges as visiting judges.

H.B. 1189, Relating to the authority of the Texas Water Commission over issuance of certain water district bonds.

H.B. 1239, Relating to the issuance of permits to certain persons by the Texas Air Control Board, the Texas Water Commission and the Texas Department of Health.

H.B. 1446, Relating to the creation, administration, powers, duties, operation, financing and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district.

H.B. 1476, Relating to the offense of a driver fleeing or attempting to elude a police officer.

H.B. 1486, Relating to notice of the application of another state's laws to certain contracts.

H.B. 1505, Relating to the recognition of foreign country money judgments.

H.B. 1533, Relating to procedures for suspending a fire fighter or police officer in certain cities.

H.B. 1606, Relating to the dissolution of the Henderson County Municipal Water Authority.

H.B. 1630, Relating to the establishment of a law school at Texas A&I University.

H.B. 1637, Relating to the supreme court adopting rules relating to sealing of court records.

H.B. 1639, Relating to the persons required to file an annual surface water use report with the Texas Water Commission.

H.B. 1668, Relating to the supplemental salary of the district judge of the 106th Judicial District.

H.B. 1694, Relating to the repeal of a contingency provision concerning the creation of the Texas Space Commission.

H.B. 1699, Relating to the liability of a parent or other person who has the duty of control and reasonable discipline of a child for property damage caused by certain conduct of the child.

H.B. 1752, Relating to membership in, benefits from and administration of the volunteer fire fighters' relief and retirement fund.

H.B. 1772, Relating to leave of absence for public officers and employees; amending Section 431.005 (b) of the Government Code.

H.B. 1806, Relating to providing postadoption services for adoptees and the adoptive families.

H.B. 1822, Relating to financial responsibility for a motor vehicle.

H.B. 1862, Relating to financial assistance for waste water projects to improve water discharged into the Rio Grande.

H.B. 1868, Relating to the payment of a fee for certain child support cases in the child support department of Harris County.

H.B. 1963, Relating to the creation, administration, powers and duties of the Texas Hazardous Materials Safety Board.

H.B. 1978, Relating to the certification of a person who completes an alcoholic beverage seller training program.

H.B. 2017, Relating to the rates applicable to property under fire insurance and homeowners insurance policies.

H.B. 2032, Relating to the meaning of "qualified voter."

H.B. 2034, Relating to interstate agreements relating to the exchange of motor fuel and motor fuel tax information and the enforcement of motor fuel taxes.

H.B. 2126, Relating to a hearing on an application for court-ordered mental health services.

H.B. 2127, Relating to the appointment of a guardian.

H.B. 2212, Relating to the prohibition of an employer discharging or disciplining an employee for complying with a subpoena; providing a penalty.

H.B. 2248, Relating to the dissolution of certain water and municipal utility districts.

H.B. 2296, Relating to the abolition of certain conservation and reclamation districts that become a part of a city.

H.B. 2316, Relating to the interest rate to be paid for purchase of a State facility from the Texas Water Development Board.

H.B. 2317, Relating to the investment authority of the Texas Water Development Board.

H.B. 2332, Relating to the delivery of home produced wine, ale, malt liquor or beer for certain purposes.

H.B. 2370, Relating to the Parks and Wildlife Department and vessel limitations.

H.B. 2423, Relating to the validity of voters' signatures on petitions filed in connection with certain elections.

H.B. 2455, Relating to improvement district finances, reports, supplies and expenditures.

H.B. 2456, Relating to the authority of a municipality to annex certain political subdivisions and to the authority of the subdivisions' governing bodies to continue in existence after the annexation.

H.B. 2461, Relating to the acceptance of donations and collection of certain fees and compensation by the State law library.

H.B. 2462, Relating to the time at which a State agency may collect certain fees and compensation.

H.B. 2489, Relating to the creation of the offense of making silent or abusive calls to a 9-1-1 service.

H.B. 2494, Relating to notice requirements for and interagency evaluation of certain solid waste permit applications.

H.B. 2514, Relating to the exclusion of land from a water control and improvement district.

H.B. 2520. Relating to venue in residential landlord and tenant actions.

H.B. 2524. Relating to political party conventions.

H.B. 2614. Relating to the statutory county courts in Travis County.

H.B. 2648. Relating to the composition, operation, powers and duties of the Titus County Hospital District.

H.B. 2674. Relating to the designation of the week in which September 19 occurs as "International Trade Awareness Week."

H.B. 2721. Relating to the financing of the construction, purchase and lease of buildings and equipment for State agencies; making an appropriation.

H.B. 2753. Relating to farm mutual companies.

H.B. 2756. Relating to an appraisal district advisory board for agricultural appraisals.

H.B. 2774. Relating to residential service companies and declaring an emergency.

H.B. 2777. Relating to criminal history information records that the Texas Department of Human Services may obtain.

H.B. 2799. Relating to the division of Water Control and Improvement Districts into two or more separate districts.

H.B. 2879. Relating to the eligibility of certain persons to guarantee matching funds for projects of regional water districts.

H.B. 2920. Relating to the legal defense of county officials and employees.

H.B. 2939. Relating to the authority of certain statutory county courts to grant adoption of adults.

H.B. 2972. Relating to the creation of the office of Texas-Mexico health and environmental issues in the Texas Department of Health.

H.B. 3018. Relating to the operation of a park district in a county with frontage on the Guadalupe and Comal rivers.

H.B. 3021. Relating to prohibited practices concerning taxicab fares; providing a penalty.

H.B. 3040. Relating to the County Court at Law No. 1 of Calhoun County.

H.B. 3078. Relating to the exemption of certain marine vessels from numbering requirements, to age requirements for wearing life preservers, to rearview mirror requirements and to emergency lights used on water safety vessels.

H.B. 3080. Relating to permits to control certain depredating animals and manage certain wildlife from aircraft; increased penalties for the prohibited use of aircraft and seizure and sale of aircraft, vehicles and guns for certain offenses.

H.B. 3084. Relating to the creation, administration, powers, duties, operations, financing and organization of the Van Zandt County Waste Disposal District; granting the power of eminent domain and the authority to issue bonds and authorizing a tax.

H.B. 3097. Relating to the Hockley County Juvenile Board.

H.B. 3104. Relating to the terms of office of directors of the Elm Creek Water Control District.

H.B. 3109, Relating to the location of a new county jail facility.

H.B. 3112, Relating to the creation, administration and powers, including the power of eminent domain subject to limitations, and to the duties, operations and financing of the Upper Trinity Regional Water District, and to the creation in that district of subdistricts with the power to levy and collect ad valorem taxes in the subdistricts; providing for the issuance of bonds; authorizing the power of eminent domain.

H.B. 3130, Relating to the creation, administration, powers, duties, operation and financing of the Colorado-Fayette Hospital District; authorizing a tax; granting the authority to issue bonds; and granting the power of eminent domain.

H.B. 3134, Relating to the creation, administration, powers, duties, operation and financing of the Crosby County Hospital District; authorizing a tax; granting the authority to issue bonds; and granting the power of eminent domain.

H.J.R. 51, Proposing a Constitutional amendment authorizing the legislature to provide for the issuance of bonds and State financing of development and production of Texas products and businesses.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Sims submitted the following report for the Committee on Administration:

H.C.R. 143
S.C.R. 107

Senator Glasgow submitted the following report for the Committee on Jurisprudence:

C.S.S.B. 1643

Senator Harris submitted the following report for the Committee on Economic Development:

H.B. 1038
H.B. 822
H.B. 1083
H.B. 1742
S.B. 1637
H.B. 1995
S.B. 845
H.B. 1213
H.B. 369 (Amended)
C.S.S.B. 1099
C.S.S.B. 265
C.S.S.B. 1302
C.S.S.B. 1256

SENATE BILLS AND RESOLUTIONS ON FIRST READING

On motion of Senator Barrientos and by unanimous consent, the following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.C.R. 141 by Barrientos Jurisprudence
Granting Charles Allen permission to sue the State of Texas, the Texas Parks and Wildlife Department and the Texas Parks and Wildlife Commission.

S.J.R. 75 by Parmer State Affairs
Proposing a constitutional amendment providing for issuance of general obligation bonds to finance a housing trust fund.

S.B. 1811 by Glasgow Health and Human Services
Relating to the jurisdiction, composition and operation of the Hamilton County Hospital District.

S.B. 1812 by Whitmire Natural Resources
Relating to the requirement that certain employers provide crop sheets and workplace chemical lists to employees and to the transfer of administration of Chapter 125 of the Agriculture Code to the Texas Department of Health if the Department of Agriculture is abolished.

S.B. 1813 by Armbrister State Affairs
Relating to the purchase, construction, and operation of buildings by the State.

S.B. 1814 by Ratliff Economic Development
Relating to the identification, possession, and unlawful use of certain containers; providing a penalty.

S.B. 1815 by Sims Health and Human Services
Relating to the creation, administration, powers, duties, operation, and financing of the Ward County Hospital District; authorizing a tax; granting the authority to issue bonds; and granting the power of eminent domain.

S.B. 1816 by Santiesteban Natural Resources
Relating to creation, operation and financing of parks and recreation districts by counties with a population of 350,000 or more or counties adjacent to counties with a population of 350,000 or more; authorizing certain counties to enter into contracts with parks and recreation districts for maintenance and other services; specifying the manner in which a parks and recreation district will be governed; authorizing the issuance of bonds, notes and other obligations by a parks and recreation district; stipulating the rights, power and authority of a parks and recreation district; containing other provisions; declaring an emergency and providing for an immediate effective date.

HOUSE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution received from the House were read the first time and referred to the Committee indicated:

H.C.R. 186, To Committee on Health and Human Services.

H.B. 1232, To Committee on Economic Development.

H.B. 2297, To Committee on Intergovernmental Relations.

H.B. 2335, To Committee on Criminal Justice.

CO-AUTHOR OF SENATE BILL 1204

On motion of Senator Dickson and by unanimous consent, Senator Carriker will be shown as Co-author of **S.B. 1204**.

CO-AUTHOR OF SENATE BILL 1674

On motion of Senator Zaffirini and by unanimous consent, Senator Barrientos will be shown as Co-author of S.B. 1674.

CO-SPONSOR OF HOUSE BILL 18

On motion of Senator Brooks and by unanimous consent, Senator Carriker will be shown as Co-sponsor of H.B. 18.

SENATE RESOLUTION 335

Senator Sims offered the following resolution:

WHEREAS, Seventy-five years ago federal legislation was enacted authorizing a new and unique system of education through a partnership between the federal government's United States Department of Agriculture and the state government's land-grant colleges and universities; and

WHEREAS, A year later, after the enactment of the federal Smith-Lever Act, the Texas Legislature accepted the terms of the Act and established the Texas Agricultural Extension Service as a legal entity, assigning it to The Texas A&M University System for administration; and

WHEREAS, The Smith-Lever Act of 1914, as amended, provides the legal basis for cooperative extension work in agriculture, home economics, youth leadership development, community resource development, and related subjects through a system that is known nationally as the Cooperative Extension Service and mandates to "serve the people"; and

WHEREAS, The Texas Legislature has also authorized financial participation by county commissioners courts in this cooperative effort; and

WHEREAS, The basic function of the Cooperative Extension System as stated in the Smith-Lever Act is "... to aid in diffusing among the people of the United States useful and practical information on subjects relating to agriculture and home economics and to exchange the application of same ..."; and

WHEREAS, For three-quarters of a century the Texas Agricultural Extension Service has been helping the people of Texas as a part of the national cooperative effort; and

WHEREAS, The Texas Agricultural Extension Service is dedicated to improving the quality of life for all citizens and has established programs for all Texans; and

WHEREAS, Texans, as well as the residents of other states, have relied on the Cooperative Extension Service for the most current, reliable information to solve problems of living, and people throughout the world have relied on it for the production of food and fiber; and

WHEREAS, The Texas Agricultural Extension Service, a part of the Cooperative Extension System and The Texas A&M University System, is observing the 75th Anniversary of the enactment of the Smith-Lever Act and of Cooperative Extension as part of a national celebration on May 8, 1989; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, hereby commend the national Cooperative Extension System and the Texas Agricultural Extension Service of The Texas A&M University System for its long and dedicated service to the citizens of the state and with pride recognize May 8, 1989, as Cooperative Extension System Day in honor of their outstanding contributions to this state and in honor of all those involved in this successful educational system.

The resolution was read and was adopted viva voce vote.

GUEST PRESENTED

At the request of the President, Senator Sims escorted to the President's Rostrum Dr. Zerle Carpenter, Director of the Agricultural Extension Program.

Dr. Carpenter was welcomed and received an enrolled copy of S.R. 335 from the President.

GUEST PRESENTED

Senator Haley was recognized and presented Dr. Wilson L. Lynch and wife Gena of Onalaska.

The Senate welcomed Dr. Lynch, a participant in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, and expressed appreciation for his contributions today.

SENATE RESOLUTION 579

Senator Montford offered the following resolution:

WHEREAS, To celebrate Worldwide Bluegrass Music Month, the Central Texas Bluegrass Association is sponsoring a free concert at Zilker Hillside Theater on Saturday, May 13, 1989; and

WHEREAS, The central focus of Worldwide Bluegrass Music Month is to introduce people to lively, lonesome sounds and to invite them to attend festivals and concerts in the future; and

WHEREAS, The celebrations in May will take the form of bluegrass music Pick-Ins at shopping centers, malls, and other community places; and

WHEREAS, Bluegrass Ambassador Concerts will be held to which members of the bluegrass music audience can invite friends who have not yet been introduced to bluegrass; and

WHEREAS, Members of the bluegrass community are encouraged to develop celebrations unique to their areas and to document these so that information concerning the May celebration may be disseminated to those planning celebrations next year; and

WHEREAS, Bob Wolff, a performing arts consultant and bluegrass music fan from New York City, organized a meeting of people to upgrade audience development techniques for bluegrass music, and out of this effort came Worldwide Bluegrass Music Month; and

WHEREAS, The celebration coincides with Central Texas Bluegrass Association's 10th anniversary and the exciting event promises to be an unforgettable afternoon on the green lawn of beautiful Zilker Park; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, hereby recognize the month of May, 1989, as Worldwide Bluegrass Music Month and congratulate the Central Texas Bluegrass Association on its 10th anniversary; and, be it further

RESOLVED, That a copy of this Resolution be prepared as a memento of this festive occasion and with best wishes for a successful month of music from the Texas Senate.

MONTFORD
BIVINS

The resolution was read and was adopted viva voce vote.

GUESTS PRESENTED

Senators Montford and Bivins introduced the following members of the South Plains College Premiere Bluegrass Student Ensemble of Levelland: Dawn Watson,

Jayson Jones, Chris Vandertuin, Nathan Dennis, Shane Bowerbank; David Hardy, Sound Technician; Director Alan Munde.

These guests, seated in the Senate Gallery, were welcomed by the Senate.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
May 8, 1989

TO THE SENATE OF THE SEVENTY-FIRST LEGISLATURE,
REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE A MEMBER OF THE STATE BOARD OF BARBER EXAMINERS,
FOR A TERM TO EXPIRE JANUARY 31, 1995:

SHARON JESCHKE CARPER
1823 32nd Street
Lubbock, Texas 79411

Mrs. Carper will be replacing Edward Borkland of Austin, whose term expired.

TO BE A MEMBER OF THE TEXAS COMMISSION ON ALCOHOL AND
DRUG ABUSE, FOR A TERM TO EXPIRE JUNE 8, 1995:

JERRY P. CUNNINGHAM
5322 Kelsey Road
Dallas, Texas 75229

Mr. Cunningham is being reappointed.

TO BE A MEMBER OF THE TEXAS GUARANTEED STUDENT LOAN
CORPORATION, FOR A TERM TO EXPIRE JANUARY 31, 1995:

WRIGHT L. LASSITER, JR.
1474 Bar Harbor Drive
Dallas, Texas 75232

Dr. Lassiter will be replacing Hulen M. Davis, Sr., of Prairie View, whose term expired.

TO BE MEMBERS OF TEXAS WOMAN'S UNIVERSITY, BOARD OF
REGENTS, FOR A TERM TO EXPIRE FEBRUARY 1, 1995:

DON C. REYNOLDS
900 Oakmont
Fort Worth, Texas 76112

Mr. Reynolds will be replacing Elizabeth B. Sellers of Houston, whose term expired.

FOR A TERM TO EXPIRE FEBRUARY 1, 1993:

ELIZABETH (BETTY) BOWLIN SELLERS
3420 Albans
Houston, Texas 77005

Mrs. Sellers will be filling the unexpired term of Maurice Lee Barksdale of Fort Worth, who resigned.

TO BE A MEMBER OF THE BATTLESHIP TEXAS ADVISORY BOARD,
FOR A TERM TO EXPIRE FEBRUARY 1, 1995:

GEORGE W. "TREY" STRAKE III
6131 Burgoyne
Houston, Texas 77057

Mr. Strake will be replacing Rosalie L. Kuntz of Pasadena, whose term expired.

TO BE A MEMBER OF THE RADIATION ADVISORY BOARD, FOR A TERM TO EXPIRE APRIL 16, 1995:

RODOLFO LUCAS VILLARREAL, M.D.
11105 N. Country Squire
Houston, Texas 77024

Dr. Villarreal is being reappointed.

TO BE MEMBERS OF THE TEXAS SURPLUS PROPERTY AGENCY, FOR TERMS TO EXPIRE MARCH 19, 1995:

HERMAN H. WOMMACK, JR.
615 Olive Street, Suite 2
Texarkana, Texas 75501

Mr. Wommack will be replacing Raymond R. Brimble of Houston, whose term expired.

ANTHONY THOMAS MERCURIO
8701 Turrentine Drive
El Paso, Texas 79925

Mr. Mercurio will be replacing Charles L. Slaton of Lubbock, whose term expired.

Respectfully submitted,

/s/W. P. Clements, Jr.
William P. Clements, Jr.
Governor of Texas

(Senator Caperton in Chair)

SENATE BILL 361 WITH HOUSE AMENDMENT

Senator Zaffirini called S.B. 361 from the President's table for consideration of the House amendment to the bill.

The Presiding Officer laid the bill and the House amendment before the Senate.

Committee Amendment - A. Hill

Amend S.B. 361 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 3(8), Crime Victims Compensation Act (Article 8309-1, Vernon's Texas Civil Statutes), as amended by Chapter 101 and Chapter 169, Acts of the 70th Legislature, Regular Session, 1987, is amended to read as follows:

(8) "Victim" means:

(A) a person who is a [Texas] resident of this state or a resident of another state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any possession or territory of the United States who is in this state at the time of the crime and who suffers personal injury or death as a result of criminally injurious conduct;

(B) a person who, at the time of the crime, is a resident of this state, and who, at the time of the crime, is in a state that does not have a crime victims compensation program that meets the requirements for eligibility under Section 1403(b), Victims of Crime Act of 1984 (42 U.S.C. Section 10602(b)), relating to the federal grant program for state crime victim compensation programs, and who suffers personal injury or death that would be compensable under this Act if the crime had occurred in this state;

(C) an intervenor;

(D) ~~[(C)]~~ a dependent of a deceased victim or an immediate family member of a deceased victim who is not a dependent but who, as a direct result of the crime, requires psychiatric care or counseling;

(E) ~~[(D)]~~ a person who is not an immediate family member or a dependent, but who resided in the same permanent household as a deceased victim in a relationship with the victim within the second degree of consanguinity, and who, as a direct result of the crime, requires psychiatric care or counseling; ~~[and]~~

(F) ~~[(E)]~~ in the event of a death, a person who legally assumes the obligation or who voluntarily pays the medical or burial expenses incurred as a direct result of the crime; ~~or~~:-

~~[(D) in the event of a death, a person who legally assumes the obligation or who voluntarily pays the medical or burial expenses incurred as a direct result of the crime;]~~

(G) ~~[(F)]~~ an immediate family member of a victim who is a child, if the immediate family member, as a direct result of the crime, requires psychological or psychiatric counseling.

SECTION 2. Section 6, Crime Victims Compensation Act (Article 8309-1, Vernon's Texas Civil Statutes), is amended by adding Subsection (e) to read as follows:

(e) Except as provided by rules adopted by the board to prevent the unjust enrichment of an offender, the board may not deny an award otherwise payable to a victim based on the fact that the victim:

- (1) is an immediate family member of the offender; or
- (2) resides in the same household as the offender.

SECTION 3. Section 3(13), Crime Victims Compensation Act (Article 8309-1, Vernon's Texas Civil Statutes), is repealed.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **S.B. 361**.

The motion prevailed by the following vote: Yeas 24, Nays 0.

Absent: Barrientos, Lyon, Parmer, Santiesteban, Tejeda.

Absent-excused: Ratliff, Washington.

SENATE BILL 245 WITH HOUSE AMENDMENTS

Senator McFarland called **S.B. 245** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

Committee Amendment - Larry

Amend **S.B. 245** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 404.001, Government Code, is amended to read as follows:

Sec. 404.001. DEFINITIONS. In this chapter:

- (1) "Board" means the State Depository Board.
- (2) "Demand deposit" means a deposit that is payable on demand.

(3) "Direct security repurchase agreement" means an agreement under which the state buys, holds for a specified time, and then sells back any of the following securities, obligations, or participation certificates:

(A) United States government securities;
(B) direct obligations of or obligations the principal and interest of which are guaranteed by the United States; or

(C) direct obligations of or obligations [participation certificates] guaranteed by the Federal Home Loan [Intermediate Credit] Bank, [a federal land bank,] the Federal National Mortgage Association, the Federal Farm Credit System, the Student Loan Marketing Association, or the Federal Home Loan Mortgage Corporation [a federal home loan bank, or a bank for cooperatives].

(4) "Market value" means the fair and reasonable prevailing price at which a security is being sold on the open market at the time of the appraisal of the security by the treasurer.

(5) "Reverse security repurchase agreement" means an agreement under which the state sells and after a specified time buys back any of the securities, obligations, or participation certificates listed in Paragraphs (A) through (C), Subdivision (3).

(6) "State depository" means an institution designated as a state depository under Subchapter C.

(7) "Time deposit" means a deposit for which there is in force a contract providing that neither the whole nor a part of the deposit may be withdrawn by check or otherwise before the expiration of the period of notice that must be given in writing in advance of a withdrawal.

(8) [(7)] "Treasurer" means the state treasurer.

(9) [(8)] "Treasury" means state funds subject to the custody and control of the state treasurer and available for appropriation by the legislature.

SECTION 2. Subsection (a), Section 404.021, Government Code, is amended to read as follows:

(a) Any ~~[private,]~~ state[;] or national bank doing business in the state may be designated by the board as a state depository. Designation of a bank as a depository includes all of the bank's branches within the state [A private bank organized according to state banking law that seeks to become a state depository must agree in writing to submit itself to examination to determine its solvency].

SECTION 3. Section 404.024, Government Code, is amended to read as follows:

Sec. 404.024. AUTHORIZED INVESTMENTS. (a) The board may determine and designate the amount of state funds to be deposited in state depositories, the amount of those deposits that shall be demand deposits and the amount that shall be time deposits, and the amount of state funds that shall be invested by the treasurer in:

(1) direct security repurchase agreements;
(2) reverse security repurchase agreements;
(3) direct obligations of or obligations the principal and interest of which are guaranteed by the United States; ~~[and]~~

(4) direct obligations of or obligations [participation certificates] guaranteed by the Federal Home Loan [Intermediate Credit] Bank, the [Federal Land Banks,] Federal National Mortgage Association, the Federal Farm Credit System, the Student Loan Marketing Association, and the Federal Home Loan Mortgage Corporation;

(5) bankers' acceptances that:

(A) are eligible for purchase by the Federal Reserve System;

(B) do not exceed 270 days to maturity; and

(C) are issued by a bank that has received the highest short-term credit rating by a nationally recognized investment rating firm;

(6) commercial paper that:

(A) does not exceed 270 days to maturity; and

(B) has received the highest short-term credit rating by a nationally recognized investment rating firm; and

(7) contracts written by the treasury in which the treasury grants the purchaser the right to purchase securities in the treasury's marketable securities portfolio at a specified price over a specified period and for which the treasury is paid a fee [Federal Home Loan Banks, and Banks for Cooperatives].

(b) The amount deposited [invested] in state depositories [obligations and participations authorized by Subsections (a)(3) and (4)] at any one time must be at least 25 [may not exceed 20] percent of the average daily balance of all state funds eligible for deposit or investment under this chapter unless the board approves a lower percentage. Investments in direct security repurchase agreements and reverse security repurchase agreements may be made [only] with state or national banks domiciled in this state or with primary dealers as approved by the Federal Reserve System.

(c) The board may contract with a depository for the payment of interest on time or demand deposits at a rate not to exceed a rate that is lawful under an Act of Congress and rules and regulations of the board of governors of the Federal Reserve System, the board of directors of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal Home Loan Banking Board.

(d) Not more than 20 percent of the aggregate funds on deposit in financial institutions at any time may be in depository institutions other than banks.

(e) The treasurer may invest the gross proceeds from obligations of this state or any agency of this state in:

(1) obligations of a state or an agency, county, city, or other political subdivision of a state; and

(2) mutual funds composed of obligations described by Subdivision (1).

(f) To the extent practicable, the treasurer shall give first consideration to Texas banks when investing in direct security repurchase agreements.

SECTION 4. Subsections (e) and (g), Section 404.031, Government Code, are amended to read as follows:

(e) Instead of depositing pledged securities with the treasurer, a depository may deposit them with a custodian. The custodian may be the Texas Treasury Safekeeping Trust Company or a state or national bank that has a capital stock and permanent surplus of not less than \$5 million, has been designated a state depository, and has been designated as a custodian by the treasurer. The state depository and the custodian of securities pledged by that state depository may not be the same bank or be owned by the same bank holding company. The securities shall be held in trust by the custodian [bank] to secure funds deposited by the treasurer in the state depository pledging the securities. On receipt of the securities, the custodian [bank] shall immediately, by book entry or otherwise, identify on its books and records the pledge of the securities and shall promptly issue and deliver to the treasurer controlled trust receipts for the securities pledged. The security evidenced by the trust receipts is subject to inspection by the board or its agents at any time. [The custodian bank must have a capital stock and permanent surplus of not less than \$500,000.] The depository pledging the securities shall pay the charges, if any, of the custodian bank for accepting and holding the securities. A custodian bank, acting alone or through a permitted institution, is for all purposes under state law and notwithstanding Chapters 8 and 9, Business & Commerce Code,

the bailee or agent of the treasurer. The security interest arising out of a pledge of securities to secure deposits of the state is created, attaches, and is perfected for all purposes under state law from the time the custodian identifies the pledge of the securities on its books and records and issues the trust receipts. The security interest remains perfected as of that time in the hands of all subsequent custodians and permitted institutions.

(g) In this section, "permitted institution" means a Federal Reserve Bank, a "clearing corporation" as defined by Section 8.102(c), Business & Commerce Code, the Texas Treasury Safekeeping Trust Company, a state depository, and any state or nationally chartered bank or trust company that is controlled by a bank holding company that controls a state depository. Neither the state depository that pledges the securities nor any bank that is controlled by a bank holding company that controls that state depository may be the permitted institution with respect to the particular securities pledged by that state depository. A custodian [bank] holding in trust securities of a state depository under Subsection (e) may deposit the pledged securities with a permitted institution [the Federal Reserve Bank of Dallas] if the permitted institution [Federal Reserve Bank of Dallas] is the third party to the transaction. The securities shall be held by the permitted institution [Federal Reserve Bank of Dallas] to secure funds deposited by the treasurer in the state depository pledging the securities. On receipt of the securities, the permitted institution shall immediately issue to the custodian an advice of transaction or other document evidencing the deposit of the securities. When the pledged securities held by a custodian [bank] are deposited, the permitted institution [Federal Reserve Bank of Dallas] may apply book entry procedures to the securities. The records of the permitted institution [Federal Reserve Bank of Dallas] shall at all times reflect the name of the custodian [bank] depositing the pledged securities[, and the bank shall issue an advice of transaction or other document evidencing each deposit of securities to the custodian bank]. The custodian [bank] shall immediately issue and deliver to the treasurer controlled trust receipts for the pledged securities. The trust receipts shall indicate that the custodian [bank] has deposited with the permitted institution [Federal Reserve Bank of Dallas] the pledged securities held in trust for the state depository pledging the securities. A legal action or proceeding brought by or against the state, arising out of or in connection with the duties of the state depository, the custodian, or other permitted institution under this subchapter must be brought and maintained in state district court in Travis County. In this section, "control" and "bank holding company" have the meanings assigned by Article 2, Chapter I, The Texas Banking Code (Article 342-102, Vernon's Texas Civil Statutes).

SECTION 5. Section 404.046, Government Code, is amended to read as follows:

Sec. 404.046. PAYMENT FROM TREASURY. The treasurer shall countersign and pay warrants drawn by the comptroller on the treasury that are authorized by law. Money may not be paid out of the treasury except on the warrants of the comptroller, and a warrant may not be paid by the treasurer unless presented for payment to a financial institution or the treasurer before two years after the close of the fiscal year in which the warrant was issued. Claims for the payment of warrants presented after that time may be presented to the legislature for appropriations from which the claims may be paid.

SECTION 6. Subsection (a), Section 404.094, Government Code, is amended to read as follows:

(a) Fees, fines, penalties, taxes, charges, gifts, grants, donations, and other funds collected or received by a state agency under law shall be deposited in the treasury, credited to a special fund or funds, and subject to appropriation only for the purposes for which they are otherwise authorized to be expended or disbursed.

A deposit shall be made at the earliest possible time that the treasury can accept those funds, but not later than the third business [seventh] day after the date of receipt. However, if an agency determines that for seasonal or other extraordinary reasons deposits cannot be made by the third business day after the date of receipt, the agency shall provide written notice of the determination to the state auditor and treasurer with an explanation of the circumstances that require the delay. If the state auditor finds that an agency has not complied with this subsection, the state auditor shall make an estimate of any resulting financial loss to the state, taking into consideration compliance costs that would have been additionally incurred by the agency, and report the amount to the legislative audit committee, the governor, and the treasurer.

SECTION 7. Subchapter F, Chapter 404, Government Code, is amended by adding Section 404.095 to read as follows:

Sec. 404.095. ELECTRONIC TRANSFER OF CERTAIN PAYMENTS. (a)

This section applies only to a state agency that during the preceding state fiscal year collected or received more than \$100 million in fees, fines, penalties, taxes, charges, gifts, grants, donations, and other funds, excluding federal grants and interest and dividend income.

(b) If during the preceding state fiscal year a person paid a state agency a total of \$2 million or more in a category of payments and the agency reasonably anticipates that during the current state fiscal year the person will pay the agency \$2 million or more in a category of payments, the state agency shall require the person to transfer payment amounts of \$25,000 or more due to the agency in that category, on or before the date the payment is due, by one or more of the means of electronic funds transfer approved by the treasurer. For the purposes of this section, each of the following is a separate category of payments to a state agency:

- (1) fees;
- (2) fines;
- (3) civil penalties;

(4) taxes, with each type of tax specified by the treasurer being considered a separate category; and

(5) other payments to the state agency, excluding extraordinary payments such as gifts, grants, donations, interest and dividend income, and onetime surcharges.

(c) A state agency by rule may require a person other than a person subject to Subsection (b) to transfer payment amounts of \$10,000 or more due in a category of payments to the agency on or before the date the payment is due by electronic funds transfer if the person paid the agency a total of \$500,000 or more in that category of payments.

(d) The treasurer shall adopt rules specifying approved means of electronic funds transfer and specifying the types of taxes constituting separate categories.

(e) To the extent of any conflict between this section and another law specifying the time or manner of making a payment to the agency, this section controls. This section does not affect a law specifying the time for the filing of a return or other report related to the payment.

(f) A state agency may not require payment by electronic funds transfer of a protested tax payment.

SECTION 8. Subsection (a), Section 404.102, Government Code, is amended to read as follows:

(a) The treasurer may incorporate a special-purpose trust company called the Texas Treasury Safekeeping Trust Company. The purposes [sole purpose] of the trust company are [is] to provide a means for the treasurer to obtain direct access to services provided by the Federal Reserve System and to enable the treasurer to manage, disburse, transfer, safekeep, and invest public funds and securities more

efficiently and economically. The treasurer may deposit public funds and securities with the trust company to achieve its purpose.

SECTION 9. Section 404.103, Government Code, is amended to read as follows:

Sec. 404.103. **POWERS.** (a) The trust company may receive, transfer, and disburse money and securities belonging to the state, agencies and local political subdivisions of the state, and nonprofit corporations, foundations, and other charitable organizations created on behalf of the state or an agency or local political subdivision of the state, [and its agencies] in a manner that qualifies the trust company as a "depository institution" as defined by Section 19, Federal Reserve Act (12 U.S.C. Section 461).

(b) While qualified as a depository institution, the trust company may enter into contracts and trust agreements or other fiduciary instruments with the treasurer, the Federal Reserve System, and other third parties. The trust company shall be liable under those contracts in accordance with the terms contained in the contracts. Notwithstanding any other statute to the contrary, to the extent permitted by the Texas Constitution and the contracts, trust agreements, or other fiduciary instruments between the trust company and the Federal Reserve System, the trust company's obligations shall be guaranteed by the state, and the state expressly waives all defenses of governmental immunity by and on behalf of the trust company, the treasurer, and the state and expressly consents to sue and be sued in federal court or in any court of competent jurisdiction. However, this provision does not alter or affect the immunity accorded to state officials and employees under state law. The trust company may enter into contracts with the treasurer and the Federal Reserve System to provide the following federal reserve services:

- (1) safekeeping book-entry United States Treasury and agency securities owned by the state and its agencies;
- (2) using the federal reserve wire transfer system to transfer money and book-entry securities and to settle securities transactions involving book-entry United States Treasury and agency securities owned by the state and its agencies;
- (3) collecting, through the Federal Reserve System, checks deposited with the treasury;
- (4) receiving payments from and making payments to the federal government on behalf of the state and its agencies;
- (5) originating automated clearinghouse transactions or other electronic transfers to make payments on behalf of the state and its agencies, collecting revenues due the state and its agencies, and transferring money between state depositories;
- (6) paying warrants drawn on the treasury and presented through the Federal Reserve System for payment; and
- (7) safekeeping collateral pledged to secure deposits of public funds.

(c) The trust company may adopt and amend articles of incorporation, bylaws, resolutions, and other documents necessary to carry out its purposes.

(d) The trust company may act as escrow agent for refunding bonds issued under Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes).

SECTION 10. Each state agency subject to Section 404.095, Government Code, as added by this Act, shall adopt the initial rules required by that section to take effect January 1, 1990.

SECTION 11. Section 404.095, Government Code, as added by this Act, does not apply to a contractual agreement entered into by a state agency before the effective date of this Act to the extent that the agreement specifies the time or manner of making payment to the agency. That section does apply to an agreement entered into, amended, or modified after the effective date of this Act.

SECTION 12. (a) In addition to the new changes in law made by this Act, this Act conforms provisions of Chapter 404, Government Code, relating to the state treasurer, to Sections 1 and 2, Chapter 131, Acts of the 70th Legislature, Regular Session, 1987.

(b) Sections 1 and 2, Chapter 131, Acts of the 70th Legislature, Regular Session, 1987, are repealed.

SECTION 13. To the extent of any conflict, this Act controls over each Act of the 71st Legislature, Regular Session, 1989, relating to nonsubstantive additions to and corrections in enacted codes, including the Act conforming Title 4 of the Government Code to certain Acts of the 70th Legislature and codifying related statutes.

SECTION 14. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment No. 1 - Evans

Amend C.S.S.B. 245 on page 5 by inserting between lines 10 and 11 the following:

(g) The treasurer may not use state funds to invest in, or purchase obligations of, a private corporation or other private business entity doing business in the Republic of South Africa unless the corporation or other entity:

(1) has:

(A) adopted the Statement of Principles for South Africa as they existed in 1987, as described in the Report on the Signatory Companies to the Statement of Principles for South Africa published by Arthur D. Little, Inc., Cambridge, Massachusetts, and has obtained a performance rating in Category 1 or 2 of the Statement of Principles for South Africa rating system as determined by Arthur D. Little, Inc.; or

(B) agreed to the Code of Conduct that is enforced by the United States Department of State under Section 208, Comprehensive Anti-Apartheid Act of 1986 (Pub. L. No. 99-440) and has received a rating of "Making Satisfactory Progress"; and

(2) does not supply strategic products or services for use by the government, military, or police of the Republic of South Africa.

(h) For the purposes of Subsection (g) of this section:

(1) "Doing business in the Republic of South Africa" means conducting or performing manufacturing, assembly, or warehousing operations within the Republic of South Africa or, if a bank or other financial institution, lending money to the government of the Republic of South Africa or any of its agencies or instrumentalities.

(2) "Strategic products or services" means articles designated as arms, ammunition, or implements of war as provided by 22 Code of Federal Regulations Part 121, or data processing equipment or computers sold for military or police use or for use in connection with restrictions on travel within the Republic of South Africa by residents of that country.

Floor Amendment No. 2 - Shine

Amend C.S.S.B. 245, on page 4, line 8, before ~~[Federal]~~, to insert:
and specifically prohibits naked-option or uncovered option trading

The amendments were read.

Senator McFarland moved to concur in the House amendments to **S.B. 245**.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent: Barrientos, Santiesteban.

Absent-excused: Ratliff, Washington.

HOUSE BILL 1768 REREFERRED

On motion of Senator Green and by unanimous consent, **H.B. 1768** was withdrawn from the Committee on State Affairs and rereferred to the Committee on Economic Development.

**COMMITTEE SUBSTITUTE
SENATE BILL 969 ON SECOND READING**

On motion of Senator Haley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 969, Relating to the regulation of credit unions.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 969 ON THIRD READING**

Senator Haley moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 969** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Barrientos.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

(Senator Brown in Chair)

SENATE BILL 1533 ON SECOND READING

On motion of Senator Green and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1533, Relating to involuntary civil commitment procedures for alcoholics, mentally ill persons, and drug-dependent persons.

The bill was read second time.

Senator Green offered the following amendment to the bill:

(1) Amend **S.B. 1533** by adding a new SECTION 8 to read as follows:

SECTION 8. Section 7, Chapter 543, Acts of the 61st Legislature, Regular Session, 1969 (Article 5561c-1, Vernon's Texas Civil Statutes), is amended by adding Subsection (g) to read as follows:

(g) When a drug-dependent person under a court-ordered drug commitment is released from an in-patient facility, the Department of Mental Health and Mental Retardation is required to arrange and furnish alternative settings for outpatient care, treatment, and supervision. Services will be furnished as close as possible to

the patient's residence. The patient is required to report at least once a week to the individual or treating facility responsible for the patient's outpatient care and services. The individual or treating facility responsible for the outpatient care or services will notify the committing court of the patient's treatment plan and condition at least once a month until the end of the commitment period.

(2) Renumber the remaining sections accordingly.

The amendment was read and was adopted viva voce vote.

On motion of Senator Green and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

SENATE BILL 1533 ON THIRD READING

Senator Green moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that S.B. 1533 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE SENATE BILL 1073 ON SECOND READING

On motion of Senator Green and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1073, Relating to the sale of checks; providing penalties.

The bill was read second time.

Senator Green offered the following amendment to the bill:

Amend C.S.S.B. 1073 by adding a new section ____ to read as follows and renumbering the subsequent sections appropriately:

SECTION ____ The Sale of Checks Act (Article 489d, Vernon's Texas Civil Statutes) is amended by adding Section 18 to read as follows:

Sec. 18. INFORMATION CONFIDENTIAL. All information or reports obtained by the Banking Department from a licensee whether obtained through examination, audits, investigation, or otherwise, including:

(a) all information contained in or related to examination, investigation, operating, or condition reports prepared by, on behalf of, or for the use of the Department; or

(b) financial statements, balance sheets, agent information, or required reports regarding maintaining permissible investments; are confidential and may not be disclosed or distributed outside the Department by the Commissioner or any officer or employee of the Department. The Commissioner, however, may provide for the release of information if:

(a) the Commissioner finds that immediate and irreparable harm is threatened to purchasers or potential purchasers of checks or the public;

(b) the licensee provides consent prior to the release;

(c) the Commissioner finds that the release is required in connection with a hearing before the Banking Section of the Finance Commission, in which case information may be distributed to the Banking Section; or

(d) the Commissioner finds that the release is reasonably necessary for the protection of the public and in the interests of justice, in which case information may be distributed to an agency or department of this state or the Federal government.

The amendment was read and was adopted viva voce vote.

On motion of Senator Green and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1073 ON THIRD READING**

Senator Green moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1073** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

SENATE BILL 1283 ON SECOND READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1283, Relating to the creation and operation of a life, health, and accident reinsurance pool for certain local governments.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 1283 ON THIRD READING

Senator Parker moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 1283** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**SENATE CONCURRENT RESOLUTION 76
ON SECOND READING**

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

S.C.R. 76, Directing each institution of higher education to develop a comprehensive policy on HIV infection and AIDS.

The resolution was read second time and was adopted viva voce vote.

SENATE BILL 1544 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1544, Relating to the imposition of fees on the storage, processing, and disposal of hazardous waste at commercial hazardous waste storage, processing, and disposal facilities in the state.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend **S.B. 1544** by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Subsection (h), Section 3, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended to read as follows:

(h) The commission [department and department of water resources] shall submit a report to the presiding officers of the legislature and the governor on January 1 of each odd-numbered year, [1987, and each two years thereafter,] providing the following information:

(1) a summary of a performance report of the imposed hazardous waste [permit and disposal] fees authorized under Section 12 of this Act, [if the fees are approved by the legislature,] and related activities to determine the appropriateness of the fee structures [structure];

(2) an evaluation of progress made in accomplishing the public policy of the state in regard to the preference of waste management methods as set forth in Section 3(e)(1) of this Act;

(3) projections of the availability of adequate capacity in this state for the management of all types of hazardous wastes generated within the state and a report of the amounts, types, and sources of hazardous waste imported into and exported from the state in the previous year. The report due January 1, 1991, shall also include an evaluation of the commercial hazardous waste fee program considering the revenues generated by this and other programs authorized under Section 12 of this Act, the needs of the commission in the administration of the solid and hazardous waste activities required under this Act, the equities in the fee structure considering the other fees required under Section 12, and any recommendations for adjustments to the fee programs or changes to Section 12 of this Act. In making this evaluation, the commission shall consult with members of the regulated community, other businesses and industries subject to or affected by the fee programs, and environmental and other public interest organizations[; for a period of three years from the due date of the report, of waste volumes by type of waste, disposition of wastes, and remaining capacity for the disposal of the wastes. The department and the department of water resources shall adopt rules requiring persons who generate, store, treat, or dispose of hazardous waste to submit to the state agency of appropriate jurisdiction on an annual basis reports detailing projections of waste volumes, disposition, and remaining capacity, as it relates to each facility owned or operated by such persons, in order that the state agencies may develop their report. The first report shall be submitted by March 1, 1986, and subsequent reports shall be submitted annually by March 1 thereafter].

SECTION 2. Subsections (b) and (c), Section 11a, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended to read as to read as follows:

(b) The hazardous waste generation and facility fees fund shall consist of money collected by the commission from fees imposed on hazardous waste

generation and permitted or interim status solid waste facilities for processing, storing, or disposing of hazardous waste under Section 12 of this Act and from interest and penalties imposed under Section 14a of this Act for late payment of hazardous waste generation or facility fees. In addition, the hazardous waste generation and facility fees fund shall also consist of money collected by the commission from the commercial hazardous waste fee created under Section 12(e) of this Act. Except as provided in Section 12(e)(8)(B) of this Act, the [The] commission may use the money collected and deposited in the fund only for regulation of industrial solid and hazardous waste pursuant to this Act, including payment to other state agencies for services provided under contract relating to enforcement of this Act.

(c) The hazardous waste disposal fee fund shall consist of money collected by the commission from fees imposed on the operator of a solid waste facility for disposal of hazardous waste under Section 12 of this Act, from interest and penalties imposed under Section 14a of this Act for late payment of a disposal fee or late filing of a report, and from money paid by a liable party for facility cleanup and maintenance under Subsection (g) of Section 13 of this Act. In addition, the hazardous waste disposal fee fund shall also consist of money collected by the commission from the commercial hazardous waste fee created under Section 12(e) of this Act.

SECTION 3. Subsection (a), Section 12, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended by adding Subdivision (7) to read as follows:

(7) "Commercial hazardous waste storage, processing, and disposal facility" includes any facility which accepts a hazardous waste for storage, processing, including incineration, and disposal from an off-site generator for a charge.

SECTION 4. Section 12, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended by adding Subsections (e) and (f) to read as follows:

(e) A fee shall be imposed on the operator of a commercial hazardous waste storage, processing, and disposal facility for hazardous waste which is generated by off-site generators and received by such commercial facility, except as provided in Subdivisions (1) through (3) of this subsection. This fee is in addition to any other fee which may be imposed under this Act and shall be designated as the commercial hazardous waste fee. The commission by rule shall establish fee rates for the commercial storage, processing, and disposal of hazardous waste, as well as the manner of collection, and shall revise the fee amounts as necessary.

(1) A fee shall not be imposed on the operator of a commercial hazardous waste, storage, processing, and disposal facility for hazardous wastes which are generated in this state and received from an affiliate or wholly owned subsidiary of the commercial facility, provided that said commercial facility handles solely industrial solid wastes generated either on site or by an affiliate or wholly owned subsidiary. For the purpose of this section, an affiliate of a commercial hazardous waste facility must have a controlling interest in common with that facility.

(2) A fee shall not be imposed on the operator of a commercial hazardous waste, storage, processing, and disposal facility for the storage of hazardous wastes which are received from off-site generators, provided such wastes are stored for less than 60 days.

(3) A fee in lieu of the commercial hazardous waste fee shall be established on an annual basis by the commission for the storage, processing, including incineration, and disposal of hazardous waste fuels which the commission shall define by rule considering:

- (A) Btu content;
- (B) metals content;
- (C) chlorinated hydrocarbon content; and
- (D) the degree to which the waste fuel is used for

energy recovery.

This fee shall be the same for wastes generated both in state and out of state.

(4) The commercial hazardous waste fee authorized under Section 12(e) shall be based on the total weight or volume of a hazardous waste except for wastes which are disposed of in an underground injection well for which the fee shall be based on the dry weight of the waste as defined in Section 12(a)(3) of this Act.

(5) The commercial hazardous waste fee for wastes generated in this state shall not exceed \$20 per ton for wastes which are landfilled. The fee amount established by rule by the commission for all other waste management methods shall be at a lesser amount and shall be based on the factors specified in Subsection (f) of this section.

(6) The operator of a commercial hazardous waste storage, processing, or disposal facility receiving hazardous waste from out-of-state generators shall be assessed the fee amount required on wastes generated in state plus an additional increment which the commission shall establish by rule. In establishing a fee for out-of-state wastes the commission shall give consideration to the following:

(A) the factors specified in Subsection (f) of this section;

(B) the added costs to the state of regulating the interstate transport and subsequent management and disposal of imported hazardous wastes and its associated risks;

(C) similar fees that may be imposed in a generator's state of origin for the storage, processing, or disposal of hazardous waste; and

(D) the contributions in both fees and taxes paid by generators in this state to the support of the state's hazardous waste regulatory programs.

(7) For hazardous wastes which are legitimately reclaimed, reused, or recycled at a commercial hazardous waste storage, processing, and disposal facility the commercial hazardous waste fee shall be the same for wastes generated in state and out of state.

(8) Fees collected under this subsection shall be credited as follows:

(A) one-quarter or 25 percent of the commercial hazardous waste fee collected from each commercial hazardous waste storage, processing, and disposal facility shall be credited to the hazardous waste generation and facility fees fund under Section 11a of this Act;

(B) one-quarter or 25 percent of the commercial hazardous waste fee collected from each commercial hazardous waste storage, processing, and disposal facility shall be credited to the hazardous waste generation and facility fees fund to be distributed to the county in which the facility is located to assist that county in defraying the costs associated with commercial hazardous waste management facilities. Funds due the affected county shall be paid by the commission within 60 days of the receipt and verification of payments from commercial facilities in the county;

(C) one-half or 50 percent of the commercial hazardous waste fee collected from each hazardous waste storage, processing, and disposal facility shall be credited to the hazardous waste disposal fee fund under Section 11a of this Act.

(f) In order to promote the public policy of preferred waste management methods pursuant to Section 3(e)(1) of this Act and to provide for an equitable fee

rate structure, the commission shall consider the following factors in establishing the generation, facility, disposal, and commercial hazardous waste fees authorized under Section 12 of this Act:

(1) the variation in risks to the public associated with different waste management methods, including storage, specifically:

(A) promoting the establishment and maintenance of hazardous waste reclamation, reuse, and recycling facilities;

(B) promoting the public policy of preferred waste management methods for aqueous hazardous waste streams which are amenable to multiple waste management methods; and

(C) considering whether the waste is ultimately disposed of in the state;

(2) the funding needed to support the adequate regulation of industrial solid waste and hazardous waste generation, storage, processing, and disposal activities, which considers authorized facility capacity and the variation in the cost of regulating different types of facilities;

(3) promoting the efficient and effective use of existing hazardous waste storage, processing, and disposal facilities within the state;

(4) whether a volume of waste received by a commercial facility has been or will be assessed a commercial facility fee at other commercial facilities under Section 12(e) of this Act; and

(5) the prevailing rates of similar fees for hazardous waste activities charged in other states to which wastes from this state may be exported or from which wastes may be imported for storage, processing, or disposal.

SECTION 5. Subsection (c), Section 14a, Solid Waste Disposal Act (Article 4477-7, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) Any interest collected under this section for late payment of a fee authorized under Section 12 of this Act shall be credited to the respective fund to which the late fee is credited under Section 11a of this Act. Any penalty collected under this section for the late submission of a report authorized under Section 13a of this Act is credited to the hazardous waste disposal fee fund under Section 11a of this Act [generation or facility fees shall be deposited in the state treasury to the credit of the hazardous waste generation and facility fees fund and any interest and penalties collected under this section for late payment of disposal fees and late filing of reports shall be deposited in the state treasury to the credit of the hazardous waste disposal fee fund].

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted viva voce vote.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

SENATE BILL 1544 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that S.B. 1544 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

SENATE BILL 1467 ON SECOND READING

On motion of Senator Santiesteban and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1467, Relating to compensation of certain resident physicians.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 1467 ON THIRD READING

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 1467** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE

SENATE BILL 1278 ON SECOND READING

On motion of Senator Uribe and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1278, Relating to the Engineering Excellence Fund.

The bill was read second time and was passed to engrossment viva voce vote.

COMMITTEE SUBSTITUTE

SENATE BILL 1278 ON THIRD READING

Senator Uribe moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1278** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

COMMITTEE SUBSTITUTE

SENATE BILL 1052 ON SECOND READING

On motion of Senator Krier and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1052, Relating to the screening of newborn children for phenylketonuria, other heritable diseases, and hypothyroidism, and requiring insurance coverage for formulas necessary to treat heritable diseases.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1052 ON THIRD READING**

Senator Krier moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.S.B. 1052 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1774 ON SECOND READING**

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1774, Relating to the authority of the Menard County Hospital District to borrow money to pay its operating expenses.

The bill was read second time.

Senator Sims offered the following amendment to the bill:

C.S.S.B. 1774 is to be amended by striking the following 4 words:

Section 1, Subsection 12B(d), page 2, line 1, strike "and its operating expenses"

The amendment was read and was adopted viva voce vote.

On motion of Senator Sims and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1774 ON THIRD READING**

Senator Sims moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.S.B. 1774 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 64 ON SECOND READING**

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 64, Relating to a system of arbitration for seed performance disputes.

The bill was read second time.

Senator Sims offered the following amendment to the bill:

C.S.S.B. 64 is to be amended by adding the word vegetable to the following lines:

Insert the word vegetable before seed in the caption.

Section 1, Subsection 64.001, line 9, insert the word vegetable before seed.

Section 1, Subsection 64.002(a), lines 13, 14, 16, and 21 insert the word vegetable before seed.

Section 1, Subsection 64.002(c), line 2 insert the word vegetable before seed.

Section 1, Subsection 64.002(d), line 8 insert the word vegetable before seed.

Section 1, Subsection 64.003(b), lines 24 and 26 insert the word vegetable before seed.

Section 1, Subsection 64.006(a), line 5 insert the word vegetable before seed.

The amendment was read and was adopted viva voce vote.

On motion of Senator Sims and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 64 ON THIRD READING**

Senator Sims moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.S.B. 64 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1192 ON SECOND READING**

On motion of Senator Edwards and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1192, Relating to the definition of "person with a disability" and to discrimination based on disability; providing penalties.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1192 ON THIRD READING**

Senator Edwards moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1192** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed viva voce vote.

SENATE BILL 1237 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1237, Relating to the effect of having received probation in a criminal case on an applicant for certain licenses issued by the Texas Department of Human Services or a licensee operating under certain licenses issued by the department.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 1237 ON THIRD READING

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **S.B. 1237** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 467 ON SECOND READING**

On motion of Senator Santiesteban and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 467, Relating to the offenses of aggravated assault and deadly assault on certain probation personnel and juvenile detention officers and to defining violations of certain conditions of probation as "escape" for the purposes of the Penal Code.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 467 ON THIRD READING**

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 467** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1674 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1674, Relating to the regulation of facilities that treat chemically dependent persons.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1674 ON THIRD READING**

Senator Zaffirini moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.S.B. 1674 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 912 ON SECOND READING**

On motion of Senator McFarland and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 912, Relating to insurance or collateralization requirements for funds maintained by state agencies outside the state treasury; providing penalties.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 912 ON THIRD READING**

Senator McFarland moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.S.B. 912 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1155 ON SECOND READING**

On motion of Senator McFarland and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1155, Relating to the imposition, administration, collection, and enforcement of motor fuel taxes; prescribing penalties.

The bill was read second time and was passed to third reading viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1155 ON THIRD READING**

Senator McFarland moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that C.S.H.B. 1155 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 340 ON SECOND READING

On motion of Senator Haley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 340. Relating to exempting certain vending machine sales from sales and use taxes.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 340 ON THIRD READING

Senator Haley moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 340** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 1212 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1212. Relating to the regulation of real estate brokers, salesmen, and inspectors: providing civil penalties.

The bill was read second time and was passed to third reading viva voce vote.

HOUSE BILL 1212 ON THIRD READING

Senator Armbrister moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 1212** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed viva voce vote.

HOUSE BILL 1301 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1301. Relating to the sale and purchase of redfish.

The bill was read second time.

Senator Harris offered the following committee amendment to the bill:

Amend **H.B. 1301** by striking Section 2 in its entirety and substituting in lieu thereof the following:

“Section 2. This Act takes effect December 31, 1990.”

The committee amendment was read and was adopted viva voce vote.

Senator Harris offered the following amendment to the bill:

Amend **H.B. 1301** by inserting the following:

On line 42 before the word or “, Federal waters”

On line 59 after the word state and before the word or “, Federal waters”

The amendment was read and was adopted viva voce vote.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading viva voce vote.

HOUSE BILL 1301 ON THIRD READING

Senator Harris moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **H.B. 1301** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed viva voce vote.

RECORD OF VOTE

Senator Brooks asked to be recorded as voting “Nay” on the final passage of the bill.

COMMITTEE SUBSTITUTE SENATE BILL 570 ON SECOND READING

On motion of Senator Santiesteban and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 570, Relating to the sale of American Indian arts and crafts and turquoise; providing a criminal penalty.

The bill was read second time and was passed to engrossment viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 570 ON THIRD READING

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 570** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 1235 ON SECOND READING

Senator Barrientos asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 1235, Relating to the sale of certain state-owned real property in Travis County and to the issuance of revenue bonds to finance the development, construction, renovation, and furnishing of facilities for the Texas School for the Deaf.

There was objection.

Senator Barrientos then moved to suspend the regular order of business and take up **C.S.S.B. 1235** for consideration at this time.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Harris, Henderson, Johnson, Krier, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Haley, Leedom, Sims.

Absent-excused: Ratliff, Washington.

The bill was read second time and was passed to engrossment viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1235 ON THIRD READING**

Senator Barrientos moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that **C.S.S.B. 1235** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Armbrister, Barrientos, Bivins, Brooks, Brown, Caperton, Carriker, Dickson, Edwards, Glasgow, Green, Harris, Henderson, Johnson, Krier, Lyon, McFarland, Montford, Parker, Parmer, Santiesteban, Tejeda, Truan, Uribe, Whitmire, Zaffirini.

Nays: Haley, Leedom, Sims.

Absent-excused: Ratliff, Washington.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 3. (Same as previous roll call)

SENATE BILL 840 ON SECOND READING

Senator Dickson asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 840, Relating to the procedure by which a jury trial is waived in a criminal case.

There was objection.

Senator Dickson then moved to suspend the regular order of business and take up **S.B. 840** for consideration at this time.

The motion prevailed by the following vote: Yeas 19, Nays 7.

Yeas: Armbrister, Barrientos, Bivins, Brown, Carriker, Dickson, Edwards, Green, Haley, Harris, Henderson, Johnson, Leedom, McFarland, Parmer, Sims, Tejeda, Whitmire, Zaffirini.

Nays: Brooks, Lyon, Montford, Parker, Santiesteban, Truan, Uribe.

Absent: Caperton, Glasgow, Krier.

Absent-excused: Ratliff, Washington.

The bill was read second time.

Senator Dickson offered the following amendment to the bill:

Amend **S.B. 840** as follows:

(1) By striking Section 1 and Section 2 thereof.

(2) By substituting the following language for SECTION 3:

SECTION 3. Section 2(b), Article 37.07, Code of Criminal Procedure, is amended to read as follows:

(b) Except as provided in Article 37.071, if a finding of guilty is returned, it shall then be the responsibility of the judge to assess the punishment applicable to the offense; provided, however, that (1) in any criminal action where the jury may recommend probation and the defendant filed his sworn motion for probation before the trial began and (2) in other cases where the defendant or the attorney representing the state so elects in writing before the commencement of the voir dire examination of the jury panel, the punishment shall be assessed by the same jury, except as provided in Article 44.29. If a finding of guilty is returned, the defendant may, with the consent of the attorney for the state, change his election of one who assesses the punishment.

(3) By substituting the following for SECTION 4. Article 44.29(b), Code of Criminal Procedure, is amended to read as follows:

SECTION 4. (b) If the court of appeals or the Court of Criminal Appeals awards a new trial to the defendant only on the basis of an error or errors made in the punishment stage of the trial, the cause shall stand as it would have stood in case the new trial had been granted by the court below, except that the court shall commence the new trial as if a finding of guilt had been returned and proceed to the punishment stage of the trial under Subsection (b), Section 2, Article 37.07, of this code. If the defendant or the attorney representing the state so elects the court shall empanel a jury for the sentencing stage of the trial in the same manner as a jury is empaneled by the court for other trials before the court. At the new trial, the court shall allow both the state and the defendant to introduce evidence to show the circumstances of the offense and other evidence as permitted by section 3 of Article 37.07 of this code.

(4) By amending SECTION 5, subpart (a) as follows:

SECTION 5. (a) The change in law made by this Act applies only to the election of a jury determination on guilt or innocence or assessment of punishment in a trial commenced on or after the effective date of this Act.

The amendment was read and was adopted viva voce vote.

On motion of Senator Dickson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

(President in Chair)

The bill as amended was passed to engrossment by the following vote: Yeas 15, Nays 11.

Yeas: Armbrister, Barrientos, Bivins, Brown, Dickson, Green, Haley, Henderson, Krier, Leedom, Parmer, Sims, Tejeda, Whitmire, Zaffirini.

Nays: Brooks, Caperton, Edwards, Glasgow, Johnson, Lyon, Montford, Parker, Santiesteban, Truan, Uribe.

Absent: Carriker, Harris, McFarland.

Absent-excused: Ratliff, Washington.

**NOTICE OF SESSION TO HOLD
LOCAL AND UNCONTESTED BILLS CALENDAR**

Senator Sims announced that a Local and Uncontested Bills Calendar had been placed on the Members' desks and gave notice that a Local and Uncontested Bills Calendar would be held at 8:00 a.m. tomorrow and that all bills would be considered on second reading in the order in which they are listed.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Montford and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on State Affairs might consider the following bills at 2:30 p.m. today:

**H.B. 329
H.B. 759
H.B. 1677
H.B. 2650
H.B. 2576**

RECESS

On motion of Senator Brooks, the Senate at 1:32 p.m. took recess until 8:00 a.m. tomorrow.

**FIFTY-NINTH DAY
(Continued)
(Tuesday, May 9, 1989)**

AFTER RECESS

The Senate met at 8:00 a.m. and was called to order by Senator Sims.

SENATORS ANNOUNCED PRESENT

Senators Ratliff and Washington, who had previously been recorded as "Absent-excused," were announced "Present."

MESSAGE FROM THE HOUSE

House Chamber
May 9, 1989

**HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE**

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.J.R. 33. Proposing a constitutional amendment to create a fire department emergency fund and to authorize the state to provide scholarships, grants, loans and other financial assistance to local fire departments and other public fire-fighting organizations.

S.J.R. 34. Proposing a constitutional amendment relating to the authority of the legislature to provide by general or special law for the creation, establishment, maintenance and operation of a hospital district.